

# **DORSEY PETITIONS COURT**

## **TO RE- SENTENCE FRANK**

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Solicitor Holds There  
Is Now No Legal  
Obstacle in  
Way of Execution

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Solicitor Hugh M. Dorsey submitted a Petition to Judge Ben H. Hill, of the Superior Court, Monday, asking that a Date for the Hanging of Leo M. Frank under the Original Sentence of Death of August 26, 1913, be set by the Court.

After Judge Hill received the Solicitor's Petition, it was announced that no action would be taken by the Court Monday. It is thought that an Order on the Petition will be handed down on Tuesday.

This Order may be either in the form of a Rule Nisi, citing L. R. Rosser, H. C. Peeples, and H. A. Alexander, Attorneys of Record for Frank, to appear and show cause why Frank should not be resentenced or else an Order citing Frank and his Attorneys to appear in Court for Frank to be resentenced, or, on the other hand, Judge Hill may not issue any order at all, holding that such would not legally issue until the Mandate of the United States Supreme Court is received by Judge Newman and then formally sent to the Fulton Superior Court.

In the Petition, which was submitted despite the fact that the Mandate of the United States Supreme Court refusing Frank's Application for a Habeas Corpus Hearing has not yet reached Atlanta, Solicitor Dorsey sets out that there is no legal reason why, Frank should not be now resentenced, because, with the adverse Decision of the United States Supreme Court April 19, and Superseding Orders in the Case have been dissolved.

Under the Rule of the United States Supreme Court, thirty days must elapse before a Mandate comes down to the District Court; the Frank Decision having been made April 19, the Mandate to Judge Newman's Court, refusing Frank's Appeal, is expected about May 20.

Attorneys for Frank, when informed of Mr. Dorsey's unexpected move, said they had no comment to make. It is understood, however, that no action will be taken to combat whatever Judge Hill does in regard to the Solicitor's Petition.

At the Offices of the State Prison Commission on Monday, it was stated that the Date for hearing Frank's Petition for Executive Clemency would not be set until after all Court Procedure had ended and a Date for Execution of his Sentence had been fixed.

SOLICITOR'S PETITION.

Solicitor Dorsey's Petition, containing a Brief History of the Frank Case, follows:

"To the Superior Court of Fulton County:"

"Hugh M. Dorsey, Solicitor General, respectfully shows:"

"That Leo M. Frank was indicted on the 24<sup>th</sup> Day of May, 1913, for the Offense of murder."

"That at the July term of the Superior Court of Fulton County, said Frank was tried, and, on the 25<sup>th</sup> Day of August, 1913, a verdict of guilty was rendered."

"On the 26<sup>th</sup> of August, 1913, this Court sentenced said Frank to be hanged, Execution of Sentence being set for the 10<sup>th</sup> Day of October, 1913."

Thereafter, the said Frank filed his motion for a new trial, which, being

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Overruled, was carried to the Supreme Court, where the Judgment of the Lower Court was affirmed.

“Thereafter, the said Frank filed an Extraordinary Motion for a new trial, and, the same being overruled by this Court it was taken to the Supreme Court and the Judgment of the Lower Court affirmed.”

“Simultaneously with the filing of the Extraordinary Motion, the said Frank filed a motion to set aside the verdict of the Jury upon certain grounds. This Court denied said motion. Exception to the Ruling were taken, and the Case taken to the Supreme Court of Georgia, and said Judgment refusing to set aside the verdict was affirmed.”

“The Judgments of the Supreme Court above referred to have been appropriate orders made the Judgments of this Court.”

“Said Frank applied to the Supreme Court of Georgia for a Writ of Error to Supreme Court of the United States in the Case in

which the motion to set aside the verdict was made, and thereafter applied to the Supreme Court of the United States for a Writ of error. Both Courts denied said Writ.”

#### WRIT WAS DENIED.

“Said Frank thereafter made Application to the United States District Court for the Northern District of Georgia for a Writ of Habeas Corpus. Said Court denied said Writ and refused an Appeal thereon. Subsequently, said Frank applied to the Justice of the United States Supreme Court in charge of this Jurisdiction, and obtained an Appeal from the Decision of the District Court of the Northern District of Georgia. Said Appeal was heard by the Supreme Court of the United States, and an adverse Decision to said Frank, sustaining the United States District Court for the Northern District of Georgia, was handed down by said United States Supreme Court on Monday, April 19, 1915.”

“There now exists, all superseding Orders entered in the Case of the State of Georgia vs. said Frank having been dissolved, no legal Obstacle to the Execution of the Sentence passed by this Court on the 26th of August, 1913, as aforesaid.”

“Said Leo M. Frank is now incarcerated in the Common Jail of Fulton County, Georgia, his person being in the custody and keeping of C. W. Mangum, Sheriff of said County.”

“It is necessary to have said Leo M. Frank brought before this Court for the Purpose of having a Date set for the Execution of the Sentence heretofore pronounced.”

“Where, Petitioner prays:”

“That this Court grant the State’s Writ of Habeas Corpus, directed to said C. W. Mangum, Sheriff as aforesaid, commanding and requiring him to produce the person of said Leo M. Frank

before the Court at the Court Room of the Fulton Superior Court, Criminal Division, at such time as the Court seems meet and proper, to the end that the Date of the Execution of the Sentence heretofore passed by this Court may be reset, and the Judgment of the Court carried out.”

“HUGH M. DORSEY.”

“Solicitor-General Atlanta

Judicial Circuit.”

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